

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

IRET Properties,
Petitioner-Appellant,

v.

Sioux City Board of Review,
Respondent-Appellee.

ORDER

Docket No. 09-107-0664
Parcel No. 8947-09-434-018

On November 17, 2010, the above-captioned appeal came on for hearing before the Iowa Property Assessment Appeal Board. The hearing was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. Petitioner-Appellant IRET Properties was represented by Gilbert M. Licudine, Paradigm Tax Group, LLC, Chicago, Illinois, and did not participate in the hearing. The Sioux City Board of Review designated Attorney Jack Faith to represent it and appeared by telephone. A digital recording of the proceedings was made. The Appeal Board now having reviewed the entire record, heard the testimony, and being fully advised, finds:

Findings of Fact

IRET Properties (IRET), owner of property located at 3900-3937 Winona Way, Sioux City, Iowa, appeals from the Sioux City Board of Review decision reassessing its property. The real estate was classified commercial for the January 1, 2009, assessment and valued at \$3,493,500; representing \$353,100 in land value and \$3,140,400 in improvement value. IRET protested to the Board of Review on the ground that the property was assessed for more than authorized by law under Iowa Code section 441.37 (1)(b). In response to the protest, the Board of Review notified IRET the January 1, 2009, assessment would not change, stating "insufficient evidence to prove excessive."

IRET than appealed to this Board on the same ground and seeks \$2,403,500 in relief. IRET values the property at \$1,090,000.

The subject property is a 120-unit apartment complex that consists of 11 buildings including the club house. The buildings are considered below average grade, wood-frame, two- and three-story structures. The property was originally built in 1969 and 1970. In 1977 an additional 8-unit structure was added. The subject property was purchased in February 2007 for \$3,120,000. Subsequent to the 2007 purchase, a building permit was issued for \$720,000 for exterior remodel.

IRET did not participate at hearing or supply any additional evidence to this Board. Gilbert M. Licudine, on behalf of IRET, submitted a letter dated May 5, 2009, to the Board of Review. In the letter he contends that the income approach is the best method to determine the assessment of the subject property. Mr. Licudine values the property at \$1,090,000. We note that Licudine used the actual income, not market income, and made a negative adjustment for other income. Additionally, we have no evidence to show this property is unique as compared to others in the jurisdiction. This appears to be a deduction for when the units were being remodeled and not being rented. We find this method to be nonstandard appraisal methodology.

The Board of Review submitted additional exhibits in support of its value. The Sioux City Assessor's Office submitted a summary (Exhibit 105.1) that supports the January 1, 2009, assessment.

Reviewing all evidence, we find IRET failed to show what the correct assessment should be. The best evidence in the record, which is from the Board of Review, supports the property's assessed value. Therefore, we affirm the value set by the Sioux City Board of Review.

Conclusions of Law

The Appeal Board based its decision on the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2009). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal

Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).


In Iowa, property is to be valued at its actual value. § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sales prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available, "other factors" may be considered in arriving at market value. § 441.21(2). The assessed value of the property "shall be one hundred percent of its actual value." § 441.21(1)(a).

In an appeal that alleges the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b), there must be evidence that the assessment is excessive and the correct value of the property. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). IRET did not provide this Board with persuasive evidence that the current assessed value of the property is for more than authorized by law. Rather, the data submitted by the Board of Review is the most reliable evidence in the record. We, therefore, affirm the assessment of the subject property as determined by the Sioux City Board of Review as of January 1, 2009.

THE APPEAL BOARD ORDERS that the January 1, 2009, assessment of the property located in Sioux City, Iowa, as set by the Sioux City Board of Review, is affirmed.

Dated this 15 day of December, 2010.


Richard Stradley, Presiding Officer


Karen Oberman, Chair

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Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>12-15</u> , 2010	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
	<input type="checkbox"/> Certified Mail <input type="checkbox"/> Other
Signature	